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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Ex Parte Dietrich et al

Serial No.: 09/626,946

Group Art Unit: 3625

Filed: July 27, 2000

Examiner: Y. Garg/G. Akers.

For: METHOD FOR DETERMINING THE SET OF WINNING BIDS IN A  
COMBINATORIAL AUCTION

Honorable Commissioner of Patents  
Alexandria, VA 22313-1450

**SECOND PETITION UNDER 37 C.F.R. §1.181**  
**TO REINSTATE APPEAL**

Sir:

Appellants herein petition a second time under 37 C.F.R. §1.181 for reinstatement of the appeal for the above-referenced Application, as authorized by 37 C.F.R. §1.193(b)(2)(ii).

On August 13, 2003, Appellants timely filed an Appeal Brief for the final rejection of claims 1-20 in the Office Action dated February 13, 2003. A Notice of Appeal had been timely filed on June 13, 2003.

In the Office Action, dated November 24, 2003, Examiner Akers reopened prosecution.

On January 20, 2004, Appellants filed a Petition Under 37 C.F.R. §1.181 to Reinstate Appeal.

On August 25, 2004, Appellants' representative called Examiner Akers to request a status of the Appeal process. Examiner Akers indicated that he had allowed the case and that the Notice of Allowance would be forthcoming.

On November 10, 2004, Appellants' representative again called Examiner Akers for status of the Notice of Allowance. Examiner Akers again indicated that he had allowed the Application but that it was currently held up in review.

On March 3, 2005, Appellants' representative sent a formal Status Inquiry Letter

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requesting a status of the Application.

On April 29, 2005, Appellants received an Office Action from a different Examiner, Y. C. Garg, which new Examiner indicated in the Office Action that prosecution was reopened.

Appellants have evaluated this new rejection and consider that, to one of ordinary skill in the art, the reference cited therein would be irrelevant to the present invention, as defined by the claims. Therefore, Appellants consider that re-opening the prosecution based on the rejection therein would not meaningfully advance prosecution and would only serve to continue to unduly delay the ultimate issue of the patent.

Therefore, Appellants file this second Petition Under 37 C.F.R. §1.181 to Reinstate Appeal, as permitted by 37 C.F.R. §1.193(b)(2)(ii). A complete response to the new rejection is included as a Second Supplemental Brief on Appeal filed concurrently herewith.

Respectfully submitted,

Date: 7/29/05



Frederick E. Cooperrider  
Reg. No. 36, 769

**McGinn & Gibb, PLLC**  
8321 Old Courthouse Rd., Suite 200  
Vienna, VA 22182-3817  
(703) 761-4100  
**Customer No. 21254**